

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

XIAO CHEN LIN,)	
ID # 08242-043,)	
Movant,)	
)	No. 3:19-CV-263-M-BH
vs.)	No. 3:16-CR-270-M(1)
)	
UNITED STATES OF AMERICA,)	
Respondent.)	Referred to U.S. Magistrate Judge¹

FINDINGS, CONCLUSIONS, AND RECOMMENDATION

Before the Court is the movant’s correspondence dated April 16, 2021, and received on April 23, 2021 (doc. 49), which requests the issuance of a certificate of appealability. Based on the relevant filings and applicable law, a certificate of appealability should be **DENIED**.

I. BACKGROUND

Xiao Chen Lin (Movant) filed a motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255, challenging his federal conviction and sentence in No. 3:16-CR-270-M(1). (*See* doc. 2.) It was denied with prejudice on March 23, 2021. (*See* docs. 40, 41.) He now seeks a certificate of appealability for the judgment denying his § 2255 motion. (*See* doc. 47.)

II. CERTIFICATE OF APPEALABILITY

Movant was denied a certificate of appealability by order dated March 23, 2020. (*See* doc. 40.) He is not now entitled to a certificate of appealability for the same reasons set forth in that order, i.e., that he has failed to show (1) that reasonable jurists would find this Court’s “assessment of the constitutional claims debatable or wrong,” or (2) that reasonable jurists would find “it debatable whether the petition states a valid claim of the denial of a constitutional right” and


¹ By *Special Order No. 3-251*, this habeas case has been automatically referred for findings, conclusions, and recommendation.

“debatable whether [this Court] was correct in its procedural ruling.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *See also* Fed. R. App. P. 22(b); 28 U.S.C. § 2253(c).

III. RECOMMENDATION

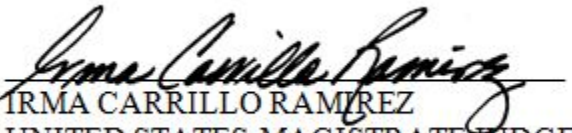
The movant’s correspondence dated April 16, 2021, and received on April 23, 2021 (doc. 49), which requests the issuance of a certificate of appealability, should be **DENIED**.

SIGNED this 28th day of April, 2021.


IRMA CARRILLO RAMIREZ
UNITED STATES MAGISTRATE JUDGE

INSTRUCTIONS FOR SERVICE AND NOTICE OF RIGHT TO APPEAL/OBJECT

A copy of these findings, conclusions and recommendation shall be served on all parties in the manner provided by law. Any party who objects to any part of these findings, conclusions and recommendation must file specific written objections within 14 days after being served with a copy. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). In order to be specific, an objection must identify the specific finding or recommendation to which objection is made, state the basis for the objection, and specify the place in the magistrate judge’s findings, conclusions and recommendation where the disputed determination is found. An objection that merely incorporates by reference or refers to the briefing before the magistrate judge is not specific. Failure to file specific written objections will bar the aggrieved party from appealing the factual findings and legal conclusions of the magistrate judge that are accepted or adopted by the district court, except upon grounds of plain error. *See Douglass v. United Servs. Automobile Ass’n*, 79 F.3d 1415, 1417 (5th Cir. 1996).


IRMA CARRILLO RAMIREZ
UNITED STATES MAGISTRATE JUDGE